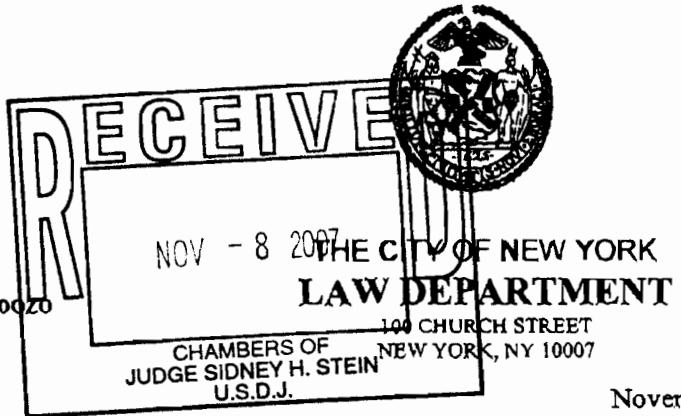


MICHAEL A. CARDZZO
Corporation Counsel



November 8, 2007

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DATE FILED: 11/13/07 (W)

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BY FAX

The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1010
New York, NY 10007

MEMO ENDORSED

Re: Gary Silver v. City of New York, et al.
07-CV-9253

Your Honor:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, supervising the defense of the above-referenced federal civil rights lawsuit.¹ I respectfully write to request a sixty day enlargement of time for defendant City of New York to answer or otherwise respond to the complaint from November 14, 2007, to January 14, 2008, and further request an adjournment of the initial pretrial conference presently scheduled for December 14, 2007, at 11:30 a.m., until after January 14, 2008. Plaintiff's counsel, Karim H. Kamal, Esq., consents to these requests.

There are several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. In this case, plaintiff Gary Silver alleges that he was unlawfully arrested by New York City police officers on Friday, May 5, 2006. Plaintiff alleges that before being arrested, he had been locked out of his residence and decided to take a walk while waiting for someone to let him in. Plaintiff then allegedly came upon a group of apparently homeless individuals outside St. Francis of Assisi Church on 31st Street in Manhattan. Plaintiff further alleges that after talking for some period of time with one of the homeless individuals, plaintiff was arrested and charged with violating New York City

¹ This case has been assigned to Assistant Corporation Counsel Maurice Hudson, who is presently awaiting admission to the bar and is handling this matter under my supervision. Mr. Hudson may be reached directly at (212) 788-8684.

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Administrative Code § 16-122(b)², and that these charges were later dismissed. Plaintiff also alleges that defendant police officer Eugene Madison subjected plaintiff to an unlawful strip search after his arrest.

We further request an enlargement of the time to answer or otherwise respond to the complaint because the records of the underlying offenses pertaining to plaintiff, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff's counsel for execution a consent and authorization for the release of those sealed records so that defendant can access the information, properly assess the case, and respond to the complaint.

An additional reason for requesting an enlargement of time is that plaintiff is still in the process of effecting service on Police Officer Eugene Madison. Once service has been effected, the proposed enlargement will allow time for this office to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent the individual named defendant in this action. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985)(quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985)(decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

Finally, the proposed adjournment of the initial conference will provide time for defendant to obtain the relevant documents, including sealed records. This will allow defendants to more substantively participate in the initial conference and address settlement issues.

No previous requests for an enlargement of time to respond to the complaint or for an adjournment of the initial conference have been made. Accordingly, it is respectfully requested that defendant's time to answer or otherwise respond to the complaint be enlarged from November 14, 2007, to January 14, 2008, and that the initial pretrial conference currently scheduled for December 14, 2007, at 11:30 a.m., be adjourned until ~~after~~ January 14, 2008, at 11:30 a.m.
[Handwritten signature]

Thank you for your consideration of these requests.

Respectfully submitted,

[Handwritten signature]
Jordan M. Smith
Assistant Corporation Counsel

SO ORDERED 11/8/07

[Handwritten signature]
SIDNEY H. STEIN
U.S.D.J.

cc: Karim H. Kamal, Esq. (BY FAX)
630 Fifth Avenue, Suite 3163
New York, New York 10111
Fax: 212-262-9586

² NYC Administrative Code § 16-122(b) reads, "It shall be unlawful for any person, such person's agent or employee to leave, or to suffer or permit to be left, any box, barrel, bale of merchandise or other movable property whether or not owned by such person, upon any marginal or public street or any public place, or to erect or cause to be erected thereon any shed, building or other obstruction."